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January 12, 1995

**BY HAND DELIVERY**

Mr. William F. Caton  
Acting Secretary  
Federal Communications Commission  
1919 M Street, N.W., Room 222  
Washington, D.C. 20554

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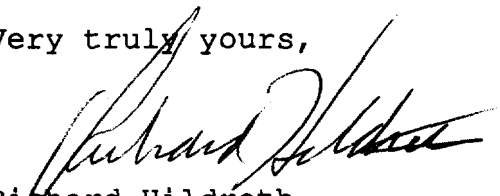
Re: MM Docket No. 94-134, RM-8538

Dear Mr. Caton:

On behalf of KNAB, Inc., there is transmitted herewith an original and four copies of its "Comments and Counterproposal."

Should any questions arise concerning this matter, please communicate with the undersigned.

Very truly yours,

  
Richard Hildreth  
Counsel for KNAB, Inc.

RH:mah  
Enclosures

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BEFORE THE

**Federal Communications Commission**

WASHINGTON, D.C. 20554

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JAN 12 1995

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

In the Matter of	)	
	)	
Amendment of Section 73.202(b),	)	MM Dkt. No. 94-134
Table of Allotments,	)	RM-8538
FM Broadcast Stations	)	
(Burlington, Colorado;	)	
Brewster, Kansas)	)	

**COMMENTS AND COUNTERPROPOSAL**

KNAB, Inc., licensee of KNAB(AM) and KNAB-FM, Burlington, Colorado ("KNAB"), by its attorneys submits its comments opposing a proposed amendment to the FM Table of Allotments, Section 73.202(b) of the Commission's rules, which would add Channel 257C1 at Burlington, Colorado to the table, as well as opposing any new allotment to Burlington. KNAB additionally submits a counterproposal requesting that Channel 257C1 be allotted to Brewster, Kansas, in lieu of Burlington.

**Comments**

Burlington is a small agricultural town in a classic farming and ranching area of the West located on the sparsely populated plains of eastern Colorado near the Kansas border. The town and the surrounding county of Kit Carson have a declining population and stagnant economy. As shown below, addition of a competing channel at Burlington is not economically justified and will harm those stations already licensed to the market.

That Burlington and Kit Carson County populations do not justify allotment of another channel to Burlington is patently

obvious. Burlington currently has a population of only 2,941 persons.<sup>1</sup> The entire county of Kit Carson is home to only 7,250 persons or 3 persons per square mile, making it one of Colorado's (and the nation's ) more sparsely populated counties.<sup>2</sup> With only 2,785 households in the county,<sup>3</sup> the county ranks 2,635 among U.S. counties in order of population.<sup>4</sup> In comparison to Kit Carson County's 3 persons per square mile, the entire State of Colorado has 33 persons per square mile and Denver County has 3,156 persons per square mile.<sup>5</sup>

Of even more significance, the already meager population of Burlington and the surrounding county is shrinking. From 1980 to 1992 the Kit Carson County population decreased 5.2%.<sup>6</sup> The number of housing units in the county decreased 2% from 1980 to 1989.<sup>7</sup> Fourteen percent of available housing units in the county are vacant.<sup>8</sup> There is no reason to believe that future growth will occur. Only six new housing units were authorized by county

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<sup>1</sup>U.S. Bureau of the Census, County and City Data Book: 1994, at 863 (12th ed. 1994); U.S. Bureau of the Census, 1990 Census of Population and Housing, Summary Population and Housing Characteristics: Colorado, at 5 (1991).

<sup>2</sup>U.S. Bureau of the Census, County and City Data Book: 1994, at 60, 74 (12th ed. 1994).

<sup>3</sup>Id. at 62.

<sup>4</sup>Id. at 60.

<sup>5</sup>Id.

<sup>6</sup>Id.

<sup>7</sup>Id. at 65.

<sup>8</sup>Id.

building permits in 1992 and only 4 such units were authorized on average each year during the 1990-1992 period.<sup>9</sup>

The stagnant Burlington/Kit Carson County economy simply will not support the addition of another channel at Burlington. One telling factor is that the county labor force decreased 6.6% from 1980 to 1990.<sup>10</sup> Currently there are only 11 very small manufacturing establishments in the county.<sup>11</sup> Combined they employ only 100 persons, with no change in that number over the previous five years.<sup>12</sup> The 37 wholesale establishments in the county together employ only 326 persons.<sup>13</sup> Total wholesale sales in the county in the last year for which statistics are available showed a decrease of 16.4% over the previous five years.<sup>14</sup> The mostly small retail establishments in the county employ only 422 persons.<sup>15</sup> There are only 46 service establishments in the county, with 236 employees.<sup>16</sup>

While the Burlington/Kit Carson County agricultural economy employs one fourth of the county labor force,<sup>17</sup> it too is not

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<sup>9</sup>Id. at 67.

<sup>10</sup>Id. at 68.

<sup>11</sup>Id. at 70.

<sup>12</sup>Id.

<sup>13</sup>Id. at 71.

<sup>14</sup>Id.

<sup>15</sup>Id.

<sup>16</sup>Id. at 72.

<sup>17</sup>Id. at 68.

thriving well. Agricultural production in the county has at best been generally stable and has in fact declined in some cases. For instance, between 1984 and 1993, although the production of corn for grain, dry beans, and hay increased, the production of corn for silage dropped 28% and the production of barley dropped 99%. The production of other crops such as winter wheat also decreased, with the production of oats dropping 47% and the production of grain sorghum dropping 89%.<sup>18</sup>

The sad state of the Burlington/Kit Carson County economy means that few dollars are available for advertising. That the county ranks 2,191 among U.S. counties in retail sales<sup>19</sup> comes as no surprise. The reason that there are few dollars for advertising is that county residents have minimal spending power. The median household income in the county is only \$23,125 per year (median household income for Colorado is \$30,140.)<sup>20</sup> One third of all households in the county have an annual income of less than \$15,000.<sup>21</sup> Fifteen percent of the county population lives below the poverty level.<sup>22</sup> Nineteen percent of the county population receives federal social security benefits.<sup>23</sup> The

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<sup>18</sup>Colorado Dept. of Agriculture, Colorado Agricultural Statistics, 1990-1994 editions.

<sup>19</sup>U.S. Bureau of the Census, County and City Data Book: 1994, at 71 (12th ed. 1994).

<sup>20</sup>Id. at 65.

<sup>21</sup>Id. at 64.

<sup>22</sup>Id. at 65.

<sup>23</sup>Id. at 63.

demographics of the county do not suggest that this will change in the future. More than one fourth of county residents do not have a high school diploma.<sup>24</sup> Only 15.8% have a college degree.<sup>25</sup>

With the Burlington area already highly saturated with media services which compete for the minimal advertising dollars that are available, there is no way that an additional competing broadcast station can serve the public interest. Burlington already receives service from five AM stations,<sup>26</sup> six FM stations,<sup>27</sup> and two TV stations.<sup>28</sup> In addition, Burlington, and each town in the surrounding area, has a local cable television system with a community channel that sells advertising. The Burlington cable television system carries five Denver television stations.<sup>29</sup> Denver television stations are also carried over the air on a county television translator system. Three daily newspapers are delivered to Burlington from Denver and Goodland, Kansas.<sup>30</sup> Seven weekly community newspapers<sup>31</sup> and three weekly

<sup>24</sup>Id. at 64.

<sup>25</sup>Id.

<sup>26</sup>KNAB, Burlington, Colorado; KLOE, Goodland, Kansas; KXXX, Colby, Kansas; KRDZ, Wray, Colorado; and KLMR, Lamar, Colorado.

<sup>27</sup>KNAB, Burlington, Colorado; KKCI, Goodland, Kansas; KGCR, Goodland, Kansas; KQLS, Colby, Kansas; KATR, Wray, Colorado; and KSEC, Lamar, Colorado.

<sup>28</sup>KLBY, Colby, Kansas; and KBSL, Goodland, Kansas.

<sup>29</sup>KCNC-TV, KMGH-TV, KRMA-TV, KUSA-TV, and KWGN-TV, Denver, Colorado. Warren Publishing, Inc., Television and Cable Factbook: 1994 (1994).

<sup>30</sup>Denver Post and Rocky Mountain News, Denver, Colorado; and Goodland Daily News, Goodland, Kansas.

shopper newspapers<sup>32</sup> are circulated in Burlington. All of these media, with the exception of the Denver television stations and the two Denver newspapers, regularly call upon advertisers in Burlington and Kit Carson County soliciting advertising. See Exhibit 1 hereto, Statement of Bette Bailly, General Manager/Owner, KNAB, Inc.

It is patently obvious that the addition of another local broadcast facility to Burlington will seriously harm Burlington's existing stations, causing them to devote less resources to serving the public interest. Moreover, it can be expected that one or more of the Burlington stations will have to go dark if the allotment is made to Burlington. It is instructive that even without added competition one area station has already gone dark. Station KLIM(AM), Limon, Colorado went off the air in 1992 due to financial difficulties. See Exhibit 2 hereto. KLIM was never able to resume service and Commission records indicate that KLIM has not responded to correspondence from the Commission since 1992.

In recent years, it has become universally recognized that there is a limit to the number of voices that any community can support. See Revision of Radio Rules and Policies in MM Dkt.

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<sup>31</sup>Burlington Record, Burlington, Colorado; Limon Leader, Limon, Colorado; Stratton Spotlight, Stratton, Colorado; Sherman County Star, Goodland, Kansas; Range Leader, Cheyenne Wells, Colorado; Wray Gazette, Wray, Colorado; and Flagler News, Flagler, Colorado.

<sup>32</sup>Plains Dealer, Burlington, Colorado; Mile Saver Shopper, Flagler, Colorado; and Country Advocate, Goodland, Kansas.

910140, 70 RR2d 903, 903-07, 7 FCC Rcd 7255 (1992). It is also recognized that many of the stations for which allotments were made in Broadcast Docket 80-90 have not survived. No additional channel should be allotted to Burlington under any circumstances.

Counterproposal

Accordingly, KNAB hereby requests that Channel 257C1 be allotted to Brewster, Kansas, in lieu of Burlington. Brewster is currently without local broadcast service. Attached hereto is an engineering statement demonstrating that Channel 257C1 can be allotted to Brewster in full compliance with the Commission's spacing rules. Pursuant to the Commission's FM allotment priorities, allotment of the channel to Brewster would result in a preferable distribution of channels. The Commission has stated that its priorities are (1) first full-time aural service; (2) second full-time aural service; (3) first local service; and (4) other public interest matters, with equal weight given to priorities (2) and (3). Revision of FM Policies, 90 F.C.C.2d 88 (1982).

The allotment of Channel 257C1 to Brewster would provide this community with its first local service. Thus, pursuant to the Commission's policies, this allotment would be preferable to allotting the channel to Burlington as its third local service and second local FM service.

Moreover, Brewster is in greater need of a first local service than Burlington is for a third. Although Brewster is a small city, it is located along Interstate 70, a primary east-



west transportation corridor. Brewster has its own city government, school district, post office, cable company, electric company, telephone co-op, and library. Brewster also has four churches, four stores, a grain elevator, a museum, a bank, nine miscellaneous businesses, five farming operations, and two restaurants. Further, Brewster currently has neither any local broadcast service nor any daily or weekly newspaper. Accordingly, allotment of Channel 257C1 to Brewster would result in a preferable allotment scheme.

KNAB hereby expresses its intention, if Channel 257C1 is allotted to Brewster, to promptly file an application for a construction permit for the channel and, upon grant of the construction permit, to expeditiously construct the authorized facilities. If, however, the Commission should allot a new channel to Burlington, either Channel 257C1 or an alternate channel, KNAB would be unable to apply for the Brewster channel. Due to economic considerations, KNAB would be unable both to compete with a new station in Burlington and to construct and operate a new facility in Brewster.

#### Conclusion

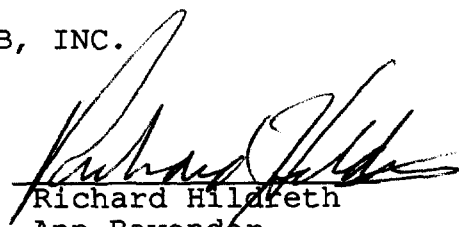
For the foregoing reasons, KNAB, Inc. urges the Commission to refrain from allotting another channel to Burlington, Colorado to avoid disastrous consequences to other Burlington stations.

Alternatively, it is requested that the Commission allot Channel 257C1 to Brewster, Kansas, as its first local service.

Respectfully submitted,

KNAB, INC.

By:

  
Richard Hildreth

Ann Bavender

Anne Goodwin Crump

Its Attorneys

Fletcher, Heald & Hildreth, P.L.C.  
1300 North 17th Street, 11th Floor  
Rosslyn, Virginia 22209  
(703) 812-0400

January 12, 1995

EXHIBIT 1



"The People's Choice"

ABC - INTERMOUNTAIN NETWORKS - 1000 W DAYTIME

P.O. Box 516

BURLINGTON, COLORADO 80807

Phone 346-8600

Statement of Botte Bailly

In the KNAB, KNAB-FM primary service area, which is that area within a 70-mile radius of Burlington, the AM radio stations include KNAB in Burlington, Colorado; KLOE in Goodland, Kansas; KXXX in Colby, Kansas; KRDZ in Wray, Colorado; and KLMR in Lamar, Colorado. FM radio stations include KNAB in Burlington, Colorado; KKCI in Goodland, Kansas; KGCR in Goodland, Kansas; KQLS in Colby, Kansas; KATR in Wray, Colorado; and KSFC in Lamar, Colorado.

Daily newspapers include the Denver Post and Rocky Mountain News which are delivered daily from Denver, Colorado, and the Goodland Daily News from Goodland, Kansas. Weekly newspapers include the Burlington Record from Burlington, Colorado; the Limon Leader from Limon, Colorado; the Stratton Spotlight from Stratton, Colorado; the Sherman County Star from Goodland, Kansas; the Range Ledger from Cheyenne Wells, Colorado; the Wray Gazette from Wray, Colorado; and the Flagler News from Flagler, Colorado. There are also three weekly shopper papers in the area, including the Plains Dealer from Burlington, Colorado; the Mile Saver Shopper from Flagler, Colorado; and the Country Advocate from Goodland, Kansas.

There are two TV stations in the area--KLBY in Colby, Kansas and KBSL in Goodland, Kansas. Burlington and many of the towns in the surrounding area also have a Cable TV outlet that has a community channel that sells advertising. The Burlington cable system carries the following Denver television stations: KCNC-TV, KMGH-TV, KRMA-TV, KUSA-TV, and KWGN-TV. These five Denver television stations also are carried on the Kit Carson County television translator system.

Each of the above-listed media are received or delivered in Burlington. Additionally, all of the media with the exception of the Denver television stations and newspapers call upon advertisers in Burlington and Kit Carson County for the sale of time or newspaper advertising.



ABC - INTERMOUNTAIN NETWORKS - 1000 W DAYTIME

P.O. Box 516

BURLINGTON, COLORADO 80807

Phone 346-8600

"The People's Choice"

The listed radio and non-Denver television stations can all be heard or viewed off the air during the daytime, and the same is true during the night with the exception of Stations KNAB AM and KLOE AM.

Burlington is a market that is extremely well-served by other media and with a flat economy that is dependent on ranching and farming, the economic picture is not going to change over the foreseeable future. The addition of another local broadcast facility to Burlington will create an economic condition for all the local broadcast stations that will result in none of the stations being able to adequately serve the public interest, and it can be expected that one or more of the stations will have to go dark.

As a station operator in Burlington for the past 27 years, I am personally familiar with these matters and the facts set forth above and in the foregoing comments and hereby affirm that the above statements are true and correct to the best of my knowledge, information and belief.

I hereby swear under penalty of perjury that the foregoing is true and correct to the best of my knowledge, information, and belief.

*Bette Bailly*  
Bette Bailly  
General Manager/Owner, KNAB, Inc.

January 12, 1995

01/12/95

15:56

NO. 061 002

EXHIBIT 2

① CC: MMB, AM Branch  
② File: KLIM



**KLIM Radio**

1120 AM

165 E Avenue, Box 87  
Limon, Colorado 80828  
(719) 775-2572

AM BRANCH 6-20-92

JUL 0 6 1992

*document*

*Sir:*

*Due to financial problems  
KLIM - Green-Harris Adctg Corp  
is off the air until further  
notice.*

*Ramona Richards*

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JUN 24 1992

RECEIVED IN CHARGE  
FCC / FOB  
DENVER, COLO.

303

**Eastern Colorado's Best Country**

ENGINEERING STATEMENT

The engineering data contained herein has been prepared on behalf of KNAB, INC., in support of its Comments and Counterproposal in MM Docket No. 94-134.

In this proceeding it is proposed that FM Channel 257C1 be allotted to Burlington, Colorado, as its second FM service. KNAB counterproposes that Channel 257C1 be allotted to Brewster, Kansas, instead. Attached hereto is a tabulation showing that all spacing requirements would be met from a reference site with coordinates of 39° 21' 42", 101° 22' 36", which are the coordinates for the center of Brewster. It may be seen from this tabulation that there is ample leeway for site selection.

I declare under penalty of perjury that the foregoing statements and the attached tabulation, which was prepared by me, are true and correct to the best of my knowledge and belief.



NEIL M. SMITH

January 11, 1995

ALLOCATION STUDY  
PROPOSED CHANNEL 257C1  
BREWSTER, KANSAS

<u>Channel</u>	<u>Nearest Allotment(s)</u>	<u>Separation in Kilometers</u>		
		<u>Required</u>	<u>Actual</u>	<u>Difference</u>
203A	KGNU, Boulder, Colo.	22	332	+310
204A	KLNE-FM, Lexington, Nebr.	34	200	+166
254C1	KSID-FM, Sidney, Nebr.	82	255	+173
255C1	KKPR-FM, Kearney, Nebr.	82	275	+193
256C1	KJIL, Copeland, Kans.	177	220	+43
<u>257A</u>	KUTT, Fairbury, Nebr.	200	379	+179
258C1	KHAZ, Hays, Kans.	177	181	+4
259C1	KOGA-FM, Ogallala, Nebr.	82	189	+107
260C1	KWKR, Leoti, Kans.	82	121	+39

**CERTIFICATE OF SERVICE**

I, Mary A. Haller, a secretary in the law firm of Fletcher, Heald & Hildreth, P.L.C., do hereby certify that true copies of the foregoing "Comments and Counterproposal" were sent this 12th day of January, 1995, by first-class United States mail, postage prepaid, to the following:

Bruce Corman  
Kay Hanley  
Charley P. Barnes  
c/o Charley P. Barnes  
524 15th Street  
Burlington, CO 80807

Mary A. Haller  
Mary A. Haller